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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/108,189	07/01/98	TANNER	H 23660-00611

PATRICK J COYNE  
COLLIER SHANNON RILL & SCOTT  
3050 K STREET NW  
WASHINGTON DC 20007

QM12/0315

EXAMINER
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THISSELL, J	
ART UNIT	PAPER NUMBER

3762

DATE MAILED:

03/15/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/108,189**

Applicant(s)  
**Tanner et al.**

Examiner  
**Jeremy Thissell**

Group Art Unit  
**3762**



☒ Responsive to communication(s) filed on Jul 1, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 82-89 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 82-89 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Jul 1, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3762

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "931" has been used to designate both the housing assembly and the gel-like material within the housing. See figure 39. Correction is required.
2. Also see the Notice of Draftsperson's Patent Drawing Review, form PTO-948 for other necessary formal changes to the drawings.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 87 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 87 is grammatically incorrect, and as a result is unclear. It reads "...wherein said positioning means comprises an inflatable cuff is filled with a fluid." It seems as though it should read more like "...wherein said inflatable cuff is filled with a fluid.", since claim 86 already establishes that the positioning means comprises an inflatable cuff, thus making this part of the claim redundant and unnecessary.

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*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 82-89 are rejected under 35 U.S.C. 102(e) as being anticipated by Hermann et al (US Pat No. 5,599,305).

Hermann teaches a introducer sheath having a positioning balloon 78 (see figure 6), and a sealing material 38 (see figure 8) in the sheath for surrounding and sealing the passage around surgical instruments introduced through the sheath.

*References*

The references made of record and not relied upon are structurally similar to applicant's invention, however, do not read on applicant's claims.

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*Contacts*

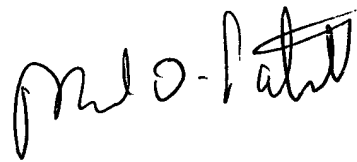
Any inquiry concerning this communication should be directed to Jeremy Thissell at (703) 305-5261, or to Primary Patent Examiner Mark Polutta (703) 308-2114.

Jeremy Thissell

Patent Examiner

JT

March 12, 2000



MARK O. POLUTTA  
PRIMARY EXAMINER